

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2010-172-C - ORDER NO. 2010-592
AUGUST 27, 2010

IN RE: Application of Tower Cloud, Inc. for a)	ORDER GRANTING
Certificate of Public Convenience and)	CERTIFICATE AND
Necessity to Provide Resold and Facilities-)	APPROVING MODIFIED
Based Interexchange Telecommunications)	ALTERNATIVE
Services in the State of South Carolina and)	REGULATION
for Alternative Regulation)	
)	

This matter comes before the Public Service Commission of South Carolina (“Commission”) by way of the Application of Tower Cloud, Inc. (“Tower Cloud” or the “Company”) requesting a Certificate of Public Convenience and Necessity authorizing it to provide resold and facilities based interexchange telecommunications services within the State of South Carolina. The Company’s Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 2009) and the rules and regulations of the Commission. By its Application, Tower Cloud also requests alternative regulation of its business interexchange services consistent with Commission Orders, and waiver of certain Commission regulations.

The Commission’s Clerk’s Office instructed Tower Cloud to publish, one time, a Notice of Filing in newspapers of general circulation in the areas of the state affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the Application of Tower Cloud and of the manner and time in which to file the

appropriate pleadings for participation in the proceeding. Tower Cloud complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was filed by the South Carolina Telephone Coalition (SCTC).

Subsequently, Tower Cloud, SCTC and ORS filed a Modified Stipulation attached hereto as Order Exhibit 1. A hearing was convened on August 9, 2010, at 10:00 a.m. in the offices of the Commission in Columbia, South Carolina, before David Butler, Hearing Examiner. Tower Cloud was represented by Marsha A. Ward, Esquire. SCTC was represented by M. John Bowen, Jr., Esquire. The Office of Regulatory Staff (“ORS”) was represented by C. Lessie Hammonds, Esquire.

Patricia T. Morrison, Vice President, Finance for the Company, testified in support of the Company’s Application. The record reveals that Tower Cloud is a corporation organized under the laws of the State of Delaware, which is registered to transact business in South Carolina. According to Ms. Morrison, the Company seeks authority as both a reseller and facilities-based provider of interexchange services. Ms. Morrison explained the Company’s request for authority, and the record further reveals the Company’s services, operations, and marketing procedures. The Company intends to offer interexchange backhaul service to wireless carriers from various cell tower locations to the carriers’ mobile switching centers throughout the state. The Company will not serve any end-user retail customers. Ms. Morrison also discussed Tower Cloud’s technical, financial, and managerial resources to provide the services for which it seeks authority.

With regard to technical, financial, and managerial capabilities, the Company's Application and Ms. Morrison's testimony both evidence that Tower Cloud's management has extensive experience in telecommunications, information technology, regulatory matters, and accounting and finance. Ms. Morrison also testified that Tower Cloud will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders. Ms. Morrison offered that approval of Tower Cloud's Application would serve the public interest.

Ms. Morrison, on behalf of the Company, requests a waiver of 26 S.C. Code Ann. Regs. 103-610, since the Company's books are maintained in another state. The Company also requests a waiver of any Commission policy that would require it to maintain its books under the Uniform System of Accounts ("USOA") method. The Company uses Generally Accepted Accounting Principles ("GAAP") to maintain its books. Therefore, according to the Company, it would create a hardship to maintain a separate accounting system.

After consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. Tower Cloud is organized under the laws of the State of Delaware as a corporation, and is authorized to do business in South Carolina by the Secretary of State.
2. Tower Cloud desires to operate as a provider of resold and facilities-based interexchange services in South Carolina.

3. We find that Tower Cloud possesses the managerial, technical, and financial experience and capability to operate as a provider of resold and facilities-based interexchange services in South Carolina.

4. We find that the issuance of a Certificate of Public Convenience and Necessity to Tower Cloud to operate as a reseller and facilities-based provider of interexchange services in South Carolina would be in the best interest of the citizens of South Carolina by providing more innovative services.

5. Tower Cloud requests a waiver of 26 S.C. Code Ann. Regs. 103-610, and for waiver of any Commission policy that would require it to maintain its books under USOA. The Commission finds Tower Cloud's requested waivers reasonable and understands the potential difficulty presented to Tower Cloud should the waivers not be granted.

6. The Company has the managerial, technical, and financial resources to provide the services as described in its Application.

CONCLUSIONS OF LAW

1. The Commission concludes that Tower Cloud possesses the managerial, technical, and financial resources to provide the telecommunications services as described in its Application.

2. The Commission concludes that the issuance of the authority to provide intrastate interexchange telecommunications services as requested by Tower Cloud and as set forth in its Application and Ms. Morrison's testimony is in the best interests of the citizens of the State of South Carolina.

3. The Commission concludes that a Certificate of Public Convenience and Necessity should be granted to Tower Cloud to provide resold and facilities-based intrastate interexchange telecommunications services.

4. The Commission concludes that Tower Cloud's intrastate interexchange business telecommunications services shall be regulated in accordance with the principles and procedures established for alternative regulation of business service offerings set out in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C. The Commission has previously granted this "alternative regulation" to competitive intrastate interexchange carriers operating within South Carolina, and the Commission concludes that the competitive marketplace requires the Commission to allow this flexible regulation to those carriers which request it. Specifically, the Commission-approved alternative regulation allows business service offerings, including consumer card services and operator services, to be subject to a relaxed regulatory scheme identical to that granted to AT&T Communications in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

However, pursuant to Order No. 2001-997 (Docket No. 2000-407-C), this Commission has modified alternative regulation by the re-imposition of rate caps with regard to certain "operator-assisted calls" where a customer uses a local exchange carrier's calling card to complete calls from locations which have not selected that local exchange carrier as the toll provider. Order No. 2001-997, dated November 8, 2001, imposed a maximum cap of \$1.75 for operator surcharges for such calls, and a maximum cap of \$0.35 related to the flat per-minute rate associated with these calls. Under this relaxed regulatory scheme, tariff filings for business services shall be presumed valid

upon filing. The Commission will have seven (7) days in which to institute an investigation of any tariff filing. If the Commission institutes an investigation of a particular tariff filing within the seven days, the tariff filing will then be suspended until further Order of the Commission.

5. We conclude that Tower Cloud's request for waiver of 26 S.C. Code Ann. Regs. 103-610 and use of the USOA should be granted. The waivers are not contrary to the public interest.

6. The Modified Stipulation between the Company, SCTC, and ORS should be approved.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

1. A Certificate of Public Convenience and Necessity should be granted to Tower Cloud to provide intrastate interexchange services through its own facilities and by the resale of services authorized for resale by tariffs of carriers approved by the Commission within the State of South Carolina. The Company, however, shall provide services only to other carriers at this time. The Company must seek permission from this Commission if it wishes to serve end-user retail customers in the future.

2. The Company's rate designs for its products shall conform to those designs described in Conclusions of Law above.

3. If it has not already done so by the date of issuance of this Order, Tower Cloud shall file its revised tariff within thirty (30) days of receipt of this Order through the Commission's e-filing system. The revised tariff shall be consistent with the findings

of this Order and shall be consistent with the Commission's Rules and Regulations, as well as the provisions of the Tower Cloud-SCTC-ORS Modified Stipulation.

4. Tower Cloud shall resell the services of only those interexchange carriers or LECs authorized to do business in South Carolina by this Commission. If Tower Cloud changes underlying carriers, it shall notify the Commission in writing.

5. In addition to the financial filings required supra, Tower Cloud shall file annual financial information in the form of annual reports and gross receipts reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, Tower Cloud shall keep financial records on an intrastate basis for South Carolina to comply with the annual report and gross receipts filings. The proper form for filing annual financial information can be found at the Commission's website at the ORS's website at www.regulatorystaff.sc.gov. The title of this form is "Telecommunications Company Annual Report." This form shall be utilized by the Company to file annual financial information with the Commission and ORS and shall be filed no later than **April 1st**.

Commission gross receipts forms are due to be filed with the Commission and ORS no later than **August 31st** of each year. The proper form for filing gross receipts information can be found at the ORS website at www.regulatorystaff.sc.gov, and the appropriate form is entitled "Gross Receipts Form."

Each telecommunications company certified in South Carolina is required to file annually with the ORS the South Carolina Universal Service Fund ("USF") Contribution Worksheet, which may be found on the ORS's website at www.regulatorystaff.sc.gov.

This worksheet provides ORS information required to determine each telecommunications company's liability to the State USF fund. The South Carolina Universal Service Fund Contribution Worksheet is due to be filed annually no later than **July 1st** with the Commission and ORS.

6. The Company shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests, and repairs. In addition, the Company shall provide to the Commission and ORS in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Tower Cloud shall file the names, addresses, and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. The "Authorized Utility Representative Information" form can be found at the ORS website at www.regulatorystaff.sc.gov; this form shall be utilized for the provision of this information to the Commission and ORS. Further, the Company shall promptly notify the Commission and ORS in writing if the representatives are replaced.

7. The Company is directed to comply with all Rules and Regulations of the Commission, unless a regulation is specifically waived by the Commission.

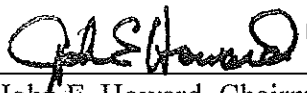
8. At the hearing, Tower Cloud requested a waiver of 26 S.C. Code Ann. Regs. 103-610 and use of the USOA. The Commission finds Tower Cloud's requested waivers reasonable and understands the potential difficulty presented to Tower Cloud should the waivers not be granted. The Commission therefore grants the requested

waivers. However, Tower Cloud shall make available its books and records at all reasonable times upon request by the Office of Regulatory Staff, and Tower Cloud shall promptly notify the Commission and ORS if the location of its books and records changes.

9. The terms of the Modified Stipulation between Tower Cloud, SCTC, and ORS, attached as Order Exhibit 1, are hereby approved and adopted as a part of this Order. The terms of the Modified Stipulation will apply to the services offered by Tower Cloud authorized herein.

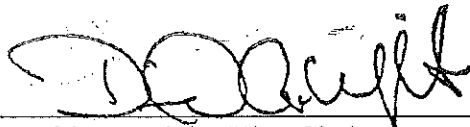
10. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



John E. Howard, Chairman

ATTEST:



David A. Wright, Vice Chairman
(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2010-172-C

In Re:)	
Application of Tower Cloud, Inc. for a)	
Certificate of Public Convenience and Necessity)	MODIFIED
to Provide Resold and Facilities Based)	STIPULATION
Interexchange Telecommunications Services)	
and for Alternative Regulation.)	

This Stipulation is made by and among the Office of Regulatory Staff ("ORS"), South Carolina Telephone Coalition ("SCTC") and Tower Cloud, Inc. ("Tower Cloud" or "the Company");

WHEREAS, On May 13, 2010 Tower Cloud, Inc. filed an application for authority to provide resold and facilities based interexchange services and for alternative regulation;

WHEREAS, on June 28, 2010, the Company filed the direct testimony of Patricia T. Morrison with the Commission;

WHEREAS, SCTC filed to intervene on June 22, 2010;

WHEREAS, Tower Cloud will not serve any end-user retail customers;

WHEREAS, the Company agrees to operate only as an interexchange back-haul service provider to wireless carriers from various cell tower locations to the carriers' mobile switching centers throughout the state;

WHEREAS, as a result of its investigations, ORS has determined: (a) the Company intends to offer resold and facilities based interexchange telecommunication services; (b) the Company's officers possess sufficient technical and managerial abilities to adequately provide

the services applied for; (c) the Company's proposed tariffs, as revised with the ORS's recommendations, will comply with Commission statutes and regulations; (d) the services provided by the Company will meet the service standards required by the Commission; (e) the provision of services by the Company will not adversely impact the availability of affordable telecommunications services; and (f) to the extent it is required to do so by the Commission, the Company will participate in the support of universally available telephone service at affordable rates;

WHEREFORE, in the spirit of compromise, the Parties hereby stipulate and agree to the following terms and conditions:

1) The Parties stipulate that the Company's Application and exhibits to the Application are incorporated into this Stipulation and made a part hereof;

2) The Parties agree to stipulate into the record before the Commission this Stipulation. The Parties also agree to stipulate to the pre-filed testimony of the Company's witness Patricia T. Morrison without cross-examination by ORS;

3) The Company requested protective treatment of the financial data filed as Exhibit E, and in May 24, 2010 Directive Re: Motion for Protective Treatment, protective treatment was granted;

4) The Company has requested a waiver of 26 S.C. Code Ann. Regs. 103-610 concerning the location of books and records. However, S.C. Code Ann. §58-9-380 (Supp. 2009) provides that:

Each telephone utility shall have an office in one of the counties of this State in which its property or some part thereof is located and shall keep in such office all such books, accounts, papers and records as shall reasonably be required by the Office of Regulatory Staff. No books, accounts, papers or records required by the ORS to be kept within the State shall be removed at any time from the

State except upon such conditions as may be prescribed by the Office of Regulatory Staff.

ORS is agreeable to allowing the Company to maintain its books and records outside of the State of South Carolina in exchange for the Company agreeing to provide access to its books and records. ORS is agreeable to the Company maintaining its books and records at its principal offices in the State of Florida, and the Company agrees to notify the ORS of any change in the location of the principal office or in the location where the books and records are maintained. This provision of the Stipulation shall not be construed as a waiver by ORS of S.C. Code Ann. § 58-4-55 (Supp. 2009) or § 58-9-1070 (Supp. 2009). ORS expressly reserves its rights to require the production of books, records and other information located within or outside of the State of South Carolina in order to carry out its duties and compliance with any state or federal regulation;

5) Tower Cloud agrees that it will not serve any end-users. In the event that the Company anticipates offering service to end-users in the future, the Company agrees to file a separate request for such, including updated financial data, with the Commission and ORS prior to offering;

6) Tower Cloud agrees to operate only as an interexchange back-haul service provider to wireless carriers from various cell tower locations to the carriers' mobile switching centers throughout the state;

7) The Company agrees to file necessary financial information with the Commission and ORS for universal service fund reporting, dual party relay service fund reporting, interim LEC fund reporting, annual reporting, gross receipts reporting, and/or any other reporting which may now or in the future be applicable to telecommunications providers such as Tower Cloud.

The Parties agree that such reports shall be filed pursuant to ORS's instructions and monies shall be remitted in accordance with the directions of the ORS and the Commission requirements;

8) In the event that the Company intends to offer prepaid calling card services in the future, the Company agrees that it shall obtain Commission approval and post a surety bond in the amount of \$5,000 as required by the Commission prior to offering;

9) In the event that the Company intends to expand its authority and offer prepaid local exchange service in the future, the Company agrees that it shall obtain Commission approval and comply with Regulation 103-697 in that they will obtain a bond, irrevocable letter of credit, or certificate of deposit per the Commission's request prior to offering;

10) The Company agrees to maintain its books and records associated with its South Carolina operations in a manner that would permit ORS to examine any of Tower Cloud's reports filed with the Commission and provided to ORS;

11) The Company agrees to comply with South Carolina Code Ann. § 58-9-300 entitled "Abandonment of Service";

12) The Company agrees to file a final revised tariff with both the ORS and the Commission within thirty days of the Commission Order granting certification, and the revised tariff shall be in accordance with ORS's recommendations.

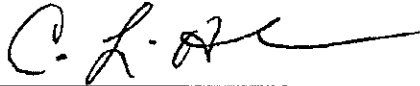
13) The Company agrees to comply with all rules and regulations of the Commission unless the Commission has expressly waived such rule or regulation;

14) The Parties represent that the terms of this Stipulation are based upon full and accurate information known as of the date this Stipulation is executed. If, after execution, either Party is made aware of information that conflicts, nullifies, or is otherwise materially different than that information upon which this Stipulation is based, either Party may withdraw from the

Stipulation with written notice to the other Party;

15) The Parties agree that signing this Stipulation will not constrain, inhibit, impair or prejudice their arguments or positions held in other collateral proceedings, nor will it constitute a precedent or evidence of acceptable practice in future proceedings. If the Commission declines to approve the Stipulation in its entirety, then any Party desiring to do so may withdraw from the Stipulation in its entirety without penalty or obligation.

WE AGREE:
Representing the Office of Regulatory Staff



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Date

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Stipulation with written notice to the other Party;

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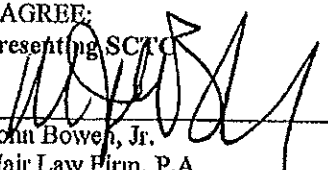
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